

CHAPTER 23.
CONSTABLES.

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36-23-1.	Number of constables; election; term of office; counties may abolish office of constable.	36-23-6.	Duties.
36-23-2.	Filling of vacancies generally.	36-23-7.	Removal from election precinct deemed vacation of office.
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36-23-4.	Bond.	36-23-9.	Liability of constable and sureties on bond.
36-23-5.	Constables deemed conservators of peace.		

Cross references. — As to prohibition against constables practicing law, see § 34-3-9. As to terms of office of constables, see § 36-3-4. As to compensation for death or disability of

peace officers, see § 36-30-1 et seq. **Collateral references.** — 80 C.J.S., Sheriffs & Constables, §§ 3, 13-20.

§ 36-23-1. Number of constables; election; term of office; counties may abolish office of constable.

(a) There shall be one constable for each election precinct in each county, to be elected as provided by law, who shall hold office for four years from the first Monday after the second Tuesday in January next after his election and until his successor is elected and qualified.

(b) Any county, by local legislation, may abolish the office of constable. (Code 1852, § 715; Code 1867, § 846; Code 1876, § 762; Code 1886, § 843; Code 1896, § 971; Code 1907, § 3324; Code 1923, § 6794; Code 1940, T. 54, § 28; Acts 1984, 1st Ex. Sess., No. 84-757, p. 129.)

Constitution. — For constitutional provisions as to office of constable generally, see Const., § 280, and Amendment No. 328, § 6.20.

Cross references. — As to when elections for constables to be held, see § 17-2-4.

The office of constable is no longer a constitutional creature. However, it remains as a creation of the Alabama legislature. *Alabama Constables Ass'n v. Wallace*, 491 So. 2d 929 (Ala. 1986).

Section 6.20(c) of Amendment No. 328 cannot be construed to recreate the office of constable as one constitutional in nature. *Alabama Constables Ass'n v. Wallace*, 491 So. 2d 929 (Ala. 1986).

The context in which constables are mentioned in Art. XVII, § 280, lends no support to the argument that the office of constable is a constitutional office. *Alabama Constables Ass'n v. Wallace*, 491 So. 2d 929 (Ala. 1986).

A constitutional amendment is not necessary to abolish the office of constable, despite the fact that constitutional amend-

ments have in fact been adopted to abolish the office in certain counties. *Alabama Constables Ass'n v. Wallace*, 491 So. 2d 929 (Ala. 1986).

The legislature can abolish the office of constable. — The office of constable is statutory. Accordingly, the legislature can abolish the office of constable. *Alabama Constables Ass'n v. Wallace*, 491 So. 2d 929 (Ala. 1986).

Local acts abolishing office of constable upheld. — As there is a general law, subsection (b) of this section, which provides that any county, by local legislation, may abolish the office of constable, four local acts abolishing the office of constable did not violate § 105 of the Alabama Constitution. *Alabama Constables Ass'n v. Wallace*, 491 So. 2d 929 (Ala. 1986).

Section 6-6-168 not applicable to constables. — Section 6-6-168, providing that claim interposed for trial of right of property is released by claimant in favor of sheriff for all damages for seizure, does not apply to constables selected under this section. *Cheek v. Odom*, 20 Ala. App. 31, 100 So. 782 (1924).